



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 6, 1996

Ms. Jennifer W. Jacobs
Bracewell & Patterson
South Tower Pennzoil Place
711 Louisiana Street, Suite 2900
Houston, Texas 77002-2781

OR96-0148

Dear Ms. Jacobs:

On behalf of the Houston Independent School District (the "school district"), you ask us to reconsider our decision in Open Records Letter No. 95-134 (1995), which concerned a request for attorney fee bills that pertained to a student's due process hearing. As the requestor was the father of the student involved in the hearing, we determined that, with the exception of certain information in the bills that we marked as being excepted from required public disclosure under section 552.107(1) of the Government Code, the Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, required the school district to release the bills to the requestor. We assigned your request for reconsideration ID# 32638.

You inform us now that portions of the bills contain information about a school district student who is not the child of the requestor. Absent a student's parent's consent, FERPA prohibits a school district from releasing information that identifies a student who is not a requestor's child. See 20 U.S.C. § 1232g(b)(1). Please note that this office has recently issued Open Records Decision No. 634 (1995), which, in summary, holds: (1) the plain language of section 552.301(a) excludes the FERPA provision from the requirement that a governmental body request an attorney general decision, (2) an educational agency or institution may withhold from public disclosure information that is protected by FERPA and excepted from required public disclosure by section 552.101 as "information considered to be confidential by law," without the necessity of requesting an attorney general decision as to that exception, and (3) an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from required public disclosure by section 552.114 as a "student record," insofar as the "student record" is protected by FERPA, without necessity of requesting an attorney general decision as to that exception.

We remind you that this ruling applies only to "education records" under FERPA. "Education records" are records that

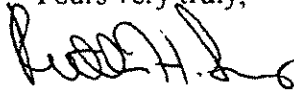
- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

20 U.S.C. § 1232g(a)(4). *See also* Open Records Decision Nos. 462 (1987), 447 (1986). Information must be withheld from required public disclosure under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982), 206 (1978).¹ If you have questions as to the applicability of FERPA to information that is the subject of an open records request, you may consult with the United States Department of Education's Family Policy Compliance Office. *See* Open Records Decision No. 634 (1995) at 4, n.6, 8. We believe that this ruling is dispositive as to information in the fee bills that identifies or tends to identify other students.

You also ask that we reconsider the applicability of section 552.107(1) to certain fee bill entries. We decline to reconsider the applicability of section 552.107(1) of the Government Code to any of the remaining fee bill entries. We reiterate that section 552.107(1) does not apply to entries about research issues or entries that do not contain details of an attorney-client communication.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth Soucy
Assistant Attorney General
Open Records Division

RHS/SAB/ch

Ref.: ID# 32638

Enclosures: Submitted documents

¹But see 20 U.S.C. § 1232g(a)(1)(A), (d) (parent or adult student has affirmative right of access to that student's education records). *See also* Open Records Decision No. 431 (1985) (Open Records Act's exceptions to required public disclosure do not authorize withholding of "education records" from adult student).

cc: Dr. Eldo W. Bergman, Jr.
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(w/o enclosures)